IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 2945 of 2006
Date of decision : 7.9.2006

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Parties Name

Harkamal

..... Petitioner

vs.

Vinod Bhatia and others.

.....Respondents

Coram: Hon'ble Mr. Justice S.N. Aggarwal

Present: Sh. Raman Sharma, Advocate
for the petitioner.

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**S.N. Aggarwal, J.**

Kalawati (now deceased), predecessor in interest of respondent No.1, had filed the ejectment petition against the present petitioner – Harkamal. It was pleaded in the application that she was landlord and Harkamal-petitioner was the tenant. He had failed to pay the arrears of rent, had sub-let the premises and had ceased to occupy the premises in question with effect from 1.4.1992 till date continuously, without any sufficient cause and therefore, was liable to be ejected.

Harkamal-petitioner filed the written reply and contested the ejectment petition. However, his tenancy under the landlord

(Kalawati) was admitted. However, he denied if any arrears of rent were payable by him or if the demised premises was sublet in favour of respondents No. 2 and 3 or if he has ceased to occupy the premises.

Issues were framed. Parties led the evidence. The learned Rent Controller reached the conclusion that the ground of sub-letting was proved and accordingly, the ejectment order was passed against the petitioner by the learned Rent Controller vide order dated 3.2.1998. This order has become final.

Kalawati filed the execution application. In the said execution application, objection was filed by one Ashwani Kumar s/o Amir Chand, under Order 21 Rule 58 CPC, in which it was pleaded that actually he was the owner of that shop and Kalawati was not the owner. The said application was dismissed by the learned Executing Court vide order dated 7.12.2005. Aggrieved against the said order, the present revision petition has been filed by Harkamal-petitioner.

The submission of the learned counsel for the petitioner was that since Kalawati was not the owner and since Ashwani Kumar was the owner, the legal heirs of Kalawati had no right to execute the ejectment order dated 3.2.1998, passed against the petitioner.

This submission has been considered. It has no merits at all. Harkamal-petitioner was tenant in the shop with effect from the year 1989. He was inducted in the shop by Kalawati vide rent note dated 20.5.1989. He had been making the payment of rent to Kalawati and in the ejectment petition filed by Kalawati, he had admitted the relationship of tenant and landlord between him and Kalawati. Therefore, Harkamal-petitioner had no right to allege that Kalawati

was no longer the owner and she or her legal heirs had no right to execute the ejectment order dated 3.2.1998, which has become final.

The application filed by Ashwani Kumar, denying the ownership of Kalawati was dismissed by the learned trial Court vide order dated 7.12.2005. That order has not been challenged by said Ashwani Kumar, therefore, the petitioner has no right to challenge the said order. He himself has admitted Kalawati to be the landlord. Therefore, this petition is a frivolous petition filed by Harkamal – petitioner and is misuse of the process of law. Therefore, this petition is dismissed with the costs of Rs.5,000/-.

**( S.N.Aggarwal )**
**Judge**

**7.9.2006.**
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